

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 19, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1157

Introduced by Senator DeSaulnier

February 18, 2010

An act to add Section 17615 to the Education Code, *and to amend Section 13183 of the Food and Agricultural Code*, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as amended, DeSaulnier. Education: Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts.

This bill, ~~commencing when specified funds are made available, would prohibit public schools from using any of the most highly toxic pesticides, as defined, on school property, except as specified. If a highest risk pesticide is used, this bill would require school staff to submit a pesticide use report, as specified. The bill would require the Department of Pesticide Regulation to update its school integrated pest management program Internet Web site to facilitate identification of use of highest risk pesticides, as specified~~ *January 1, 2014, would*

require all schoolsites to adopt an integrated pest management program as established, administered, and enforced by the department.

~~The bill would authorize the coordinator of the integrated pest management program, or a school designee, as specified, to use the most highly toxic pesticides, in the case of an emergency condition, after consulting with program staff and the local public health official who has determined that a public health emergency exists, if the requirements of the Healthy Schools Act of 2000 are met. The bill would require a school district that uses highest risk pesticides to participate in training, provide notification of use to parents, and post the area of the schoolsite where those pesticides will be applied, as specified. Because the bill would impose new duties on school districts, it would impose a state-mandated local program.~~

This bill would require the Department of Pesticide Regulation, beginning January 1, 2012, and annually thereafter, to set an adequate fee on manufacturers and brokers of ~~the most highly toxic pesticides, as defined~~ *pesticides used at schoolsites*. The bill would require the department to develop and adopt regulations to establish the amount of the fee, as specified.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) Pesticides have been linked to numerous acute and chronic
- 4 illnesses, including cancer and asthma.
- 5 (2) According to the federal Centers for Disease Control and
- 6 Prevention, children between 6 and 11 years of age have higher
- 7 levels of commonly used pesticides in their bodies than any other
- 8 age group, with an average of six pesticides per child. According
- 9 to research conducted by the University of California, San

1 Francisco, children's diseases and conditions linked to pesticide
2 exposure, which include learning disabilities, cancer of the brain
3 and leukemia, birth defects, and asthma, have increased
4 dramatically over the past 30 years. Because children's bodies and
5 brains are still developing, exposure to pesticides can have
6 irreversible detrimental effects.

7 (3) Recognizing the impact of pesticides on the school
8 community, the Department of Pesticide Regulation has developed
9 an Internet Web site, written training materials, and conducted
10 regional training sessions to assist schools that have chosen to
11 adopt least-toxic integrated pest management techniques and to
12 eliminate use of the most dangerous pesticides.

13 (4) However, many California public schools continue to use
14 highly toxic pesticides. Least-toxic pest management activities
15 have actually decreased from 2004 to 2007, inclusive, as measured
16 by the report titled, 2007 Integrated Pest Management Survey of
17 California School Districts, prepared for the Department of
18 Pesticide Regulation. Forty-two percent of school districts that
19 responded to the survey stated that they were still broadcast
20 spraying pesticides, one of the highest risk practices for exposing
21 children and staff and contaminating the environment. Of the
22 school districts that claimed to be implementing integrated pest
23 management practices, 62 percent stated that the costs were the
24 same or less than using chemical-intensive methods.

25 (5) According to the State Department of Education, there are
26 over 1,000 school districts, and about 9,900 schoolsites in
27 California servicing over 6,000,000 pupils.

28 (6) It is necessary to take precautionary measures to protect the
29 health and safety of California schoolchildren and teachers, and
30 better ensure a safe learning and working environment.

31 (b) This act shall be known, and may be cited, as the Healthy
32 Schools Act of 2010.

33 *SEC. 2. Section 17615 is added to the Education Code, to read:*
34 *17615. (a) A fund is hereby established in the State Treasury*
35 *to be known as the Healthy Schools Act of 2010 Fund. Moneys*
36 *deposited in this fund may be expended by the Director of Pesticide*
37 *Regulation, upon appropriation by statute, for the purposes of*
38 *implementing the Healthy Schools Act of 2010.*

39 *(b) The Department of Pesticide Regulation shall, beginning*
40 *January 1, 2012, and annually thereafter, set the amount of a fee*

1 on manufacturers and brokers of pesticides used at schoolsites,
2 that the department determines to be sufficient and limited to
3 reimburse the department for the cost of administering and
4 enforcing the Healthy Schools Act of 2010 and to reimburse
5 schoolsites for the costs of implementing the Healthy Schools Act
6 of 2010.

7 (c) The Department of Pesticide Regulation shall develop and
8 adopt regulations to establish the amount of an adequate fee for
9 purposes of implementing the Healthy Schools Act of 2010.

10 (d) The Department of Pesticide Regulation shall borrow moneys
11 from the Department of Pesticide Regulation Fund to cover the
12 department's costs in developing and adopting regulations and
13 establishing a fee for purposes of implementing the Healthy Schools
14 Act of 2010. The department shall repay the loan using moneys
15 from the Healthy Schools Act of 2010 Fund as they become
16 available.

17 SEC. 3. Section 13183 of the Food and Agricultural Code is
18 amended to read:

19 13183. (a) The Department of Pesticide Regulation shall
20 promote and facilitate the voluntary adoption of integrated pest
21 management programs for schoolsites, ~~excluding privately-operated~~
22 *privately operated* child day care facilities, as defined in Section
23 1596.750 of the Health and Safety Code, that voluntarily choose
24 to do so. For these schoolsites, the department shall do all of the
25 following:

26 (1) Establish an integrated pest management program for
27 schoolsites consistent with Section 13181. In establishing the
28 program, the department shall:

29 (A) Develop criteria for identifying least-hazardous pest control
30 practices and encourage their adoption as part of an integrated pest
31 management program at each schoolsite.

32 (B) Develop a model program guidebook that prescribes
33 essential program elements for schoolsites that have adopted a
34 least-hazardous integrated pest management program. At a
35 minimum, this guidebook shall include guidance on all of the
36 following:

37 (i) Adopting an IPM policy.

38 (ii) Selecting and training an IPM coordinator.

39 (iii) Identifying and monitoring pest populations and damage.

1 (iv) Establishing a community-based school district advisory
2 committee.

3 (v) Developing a pest management plan for making
4 least-hazardous pest control choices.

5 (vi) Contracting for integrated pest management services.

6 (vii) Training and licensing opportunities.

7 (viii) Establishing a community-based right-to-know standard
8 for notification and posting of pesticide applications.

9 (xi) Recordkeeping and program review.

10 (2) Make the model program guidebook available to schoolsites
11 and establish a process for systematically updating the guidebook
12 and supporting documentation.

13 *(b) Commencing on January 1, 2014, all schoolsites shall adopt*
14 *an integrated pest management program consistent with Section*
15 *13181, as established, administered, and enforced by the*
16 *department.*

17 ~~(b)~~

18 (c) The department shall promote and facilitate the voluntary
19 adoption of integrated pest management programs at child day
20 care facilities, as defined in Section 1596.750 of the Health and
21 Safety Code, through the following:

22 (1) Modifying the department's existing integrated pest
23 management program for schoolsites as described in subdivision
24 (a) ~~of Section 13183~~ for the child day care setting.

25 (2) Creating or modifying existing educational and informational
26 materials on integrated pest management for the child day care
27 setting.

28 (3) Making the materials available to child day care facilities
29 and establishing a process for systematically updating them.

30 *SEC. 4. If the Commission on State Mandates determines that*
31 *this act contains costs mandated by the state, reimbursement to*
32 *local agencies and school districts for those costs shall be made*
33 *pursuant to Part 7 (commencing with Section 17500) of Division*
34 *4 of Title 2 of the Government Code.*

35 ~~SEC. 2. Section 17615 is added to the Education Code, to read:~~

36 ~~17615. (a) Commencing when funds are made available~~
37 ~~pursuant to subdivision (i), a public school shall not use any of the~~
38 ~~most highly toxic pesticides on school property unless the pest~~
39 ~~problem to be addressed cannot be effectively managed with an~~
40 ~~alternative lower risk method, it consults with the Department of~~

~~Pesticide Regulation's school integrated pest management program staff, and the local public health officer determines that a public health emergency exists. School staff who use a highest risk pesticide shall submit a pesticide use report in the same manner as contractors that use any pesticide in accordance with the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code).~~

~~(b) For purposes of this section, "public school" has the same meaning as "schoolsite" as defined in Section 17609.~~

~~(c) For purposes of this section, "most highly toxic pesticides" means any of the following:~~

~~(1) Pesticide products that are neurotoxic organophosphorus compounds, containing N-methyl carbamate or cholinesterase inhibitors, as designated by the Materials Data Sheet of the Department of Pesticide Regulation, for the particular chemical.~~

~~(2) Pesticide products containing active ingredients rated by the United States Environmental Protection Agency as A or B carcinogens or substances listed as, known or probable human carcinogens as designated by the International Agency for Research for Cancer, the United States Environmental Protection Agency, the United States National Toxicology Program, or pursuant to the Safe Drinking Water and Toxics Enforcement Act of 1986, and are likely to be human carcinogens, or suggestive of being human carcinogens, as described in the "List of Chemicals Evaluated for Carcinogenic Potential," or known to the state to cause cancer as listed pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code).~~

~~(3) Pesticide products containing active ingredients that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency or listed pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code) or as designated pursuant to the Safe Drinking Water and Toxics Enforcement Act of 1986.~~

~~(4) Pesticide products with high acute toxicity as defined by the United States Environmental Protection Agency in Toxicity Categories I and II, as defined in Part 156.62 of Title 40 of the~~

1 Code of Federal Regulations, or designated by the World Health
2 Organization or the United States National Toxicology Program:

3 ~~(d) The Department of Pesticide Regulation shall update its~~
4 ~~school integrated pest management program Internet Web site~~
5 ~~maintained pursuant to Section 13184 of the Food and Agricultural~~
6 ~~Code, for the purpose of ease in identifying highest risk pesticides~~
7 ~~from the pesticide use report data submitted by contractors in the~~
8 ~~most recent fiscal year:~~

9 ~~(e) (1) In the case of an emergency condition as defined in~~
10 ~~subdivision (e) of Section 17609, the coordinator of the integrated~~
11 ~~pest management program, if the school district has established~~
12 ~~an integrated pest management program, or the school district~~
13 ~~designee, as defined in subdivision (d) of Section 17609, may~~
14 ~~permit the use of the most highly toxic pesticide if the pest problem~~
15 ~~to be addressed cannot be effectively managed with a lower risk~~
16 ~~method, and it consults with the Department of Pesticide~~
17 ~~Regulation's school integrated pest management program staff,~~
18 ~~the local public health officer determines that a public health~~
19 ~~emergency exists, and the provisions of the Healthy Schools Act~~
20 ~~of 2000 (Article 17 (commencing with Section 13180) of Chapter~~
21 ~~2 of Division 7 of the Food and Agricultural Code) are met.~~

22 ~~(2) Any use of highest risk pesticides must be identified on the~~
23 ~~pesticide use reports, required by Section 13186 of the Food and~~
24 ~~Agricultural Code, so that the Department of Pesticide Regulation~~
25 ~~school integrated pest management program staff are able to easily~~
26 ~~track school districts' use of exemption and highest risk pesticides.~~
27 ~~The Department of Pesticide Regulation shall review school~~
28 ~~integrated pest management program pesticide use reports on a~~
29 ~~quarterly basis, or more frequently, and require representatives of~~
30 ~~those school districts using highest risk pesticides to participate~~
31 ~~in its integrated pest management training program within six~~
32 ~~months. The department shall assist schools that have used highest~~
33 ~~risk pesticides in effectively utilizing the department's integrated~~
34 ~~pest management program Internet Web site, with its expansive~~
35 ~~links to safer alternatives for pest problems, in accordance with~~
36 ~~the Healthy Schools Act of 2000.~~

37 ~~(3) Notification of exemption to use highest risk pesticide shall~~
38 ~~be provided to parents or guardians of pupils enrolled at a~~
39 ~~schoolsite in accordance with paragraph (2) of Section 17612. In~~
40 ~~addition, notification must include the highest risk category of the~~

1 product used, the telephone numbers of the school integrated pest
2 management coordinator or designated appointee and the local
3 county public health officer, and the Internet Web site address for
4 the Department of Pesticide Regulation school integrated pest
5 management program. In addition, this notice shall also be provided
6 to all staff employed at the schoolsite where the pesticide will be
7 applied.

8 (4) Each area of the schoolsite where the highest risk pesticide
9 will be applied shall be posted pursuant to subdivision (d) of
10 Section 17612. In addition, posting in both English and Spanish
11 shall include the toxicity category of the highest risk pesticide
12 product or products used and provide the following information:

13 (A) The telephone number of the school integrated pest
14 management coordinator or his or her designated appointee.

15 (B) The telephone number of the local county public health
16 officer.

17 (C) The Internet Web site for the Department of Pesticide
18 Regulation school integrated pest management program.

19 In addition, postings shall be placed in all likely points of entry
20 at distances no further than 20 feet apart if entry points are wider
21 than 40 feet. Postings shall be printed on paper that is at least eight
22 and one-half inches by 11 inches and placed in unobstructed
23 locations.

24 (f) This section does not apply to any of the following:

25 (1) Sanitizers and disinfectants.

26 (2) Pesticide products deployed in the form of a self-contained
27 bait or trap.

28 (3) Gels or pastes deployed as crack and crevice treatment.
29 “Crack and crevice treatment” means the application of small
30 quantities of a pesticide, consistent with labeling instructions, in
31 a building into openings such as those commonly found at
32 expansion joints, between levels of construction, and between
33 equipment and floors.

34 (4) Activities undertaken at a school by participants in the state
35 program of agricultural vocational education, pursuant to Article
36 7 (commencing with Section 52450) of Chapter 9 of Part 28 of
37 Division 4 of Title 2, if the activities are necessary to meet the
38 curriculum requirements prescribed in Section 52454. Nothing in
39 this subdivision relieves schools participating in the state program
40 of agricultural vocational education of any duties pursuant to this

1 section for activities that are not directly related to the curriculum
2 requirements of Section 52454.

3 ~~(5) Agricultural uses.~~

4 ~~(g) This section does not abrogate the authority of county health~~
5 ~~officers, the Department of Food and Agriculture, mosquito and~~
6 ~~vector control districts, the State Department of Public Health, or~~
7 ~~other state agencies that are responsible for pest management~~
8 ~~decisions that may affect public schools in California.~~

9 ~~(h) This section does not preclude a school district from adopting~~
10 ~~stricter pesticide use policies or from enforcing stricter policies~~
11 ~~that have already been adopted.~~

12 ~~(i) (1) A fund is hereby established in the State Treasury to be~~
13 ~~known as the Healthy Schools Act of 2010 Fund. Moneys deposited~~
14 ~~in this fund may be expended by the Director of Pesticides~~
15 ~~Regulation upon appropriation by statute, for the purposes of~~
16 ~~implementing this section.~~

17 ~~(2) The Department of Pesticide Regulation shall, beginning~~
18 ~~January 1, 2012, and annually thereafter, set the amount of a fee~~
19 ~~on manufacturers and brokers of the most highly toxic pesticides;~~
20 ~~as defined by this section, that the department determines to be~~
21 ~~sufficient and limited to reimburse the department for the cost of~~
22 ~~administering and enforcing the Healthy Schools Act of 2010, and~~
23 ~~reimburse local agencies and school districts for costs of~~
24 ~~implementing this section.~~

25 ~~(3) The Department of Pesticide Regulation shall develop and~~
26 ~~adopt regulations to establish the amount of an adequate fee for~~
27 ~~purposes of this section. The department shall adopt regulations~~
28 ~~for purposes of this subdivision in accordance with Chapter 3.5~~
29 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
30 ~~2 of the Government Code. The adoption, amendment, readoption,~~
31 ~~or repeal of these regulations shall be considered by the Office of~~
32 ~~Administrative Law as an emergency, and necessary for the~~
33 ~~immediate preservation of the public peace, health, safety, and~~
34 ~~general welfare. Notwithstanding any other provision of law, the~~
35 ~~regulations shall remain in effect until amended by the department.~~
36 ~~The department shall make available to the public, upon the~~
37 ~~adoption of an emergency regulation establishing a new fee, the~~
38 ~~information upon which the department has calculated, based, or~~
39 ~~determined the new fee.~~

1 ~~(4) The Department of Pesticide Regulation shall borrow moneys~~
2 ~~from the Department of Pesticide Regulation Fund to cover the~~
3 ~~department's costs in developing and adopting regulations and~~
4 ~~establishing a fee for purposes of this subdivision. The department~~
5 ~~shall repay the loan using moneys from the Healthy Schools Act~~
6 ~~of 2010 Fund as they become available.~~

7 ~~(5) The Department of Pesticide Regulation shall use the~~
8 ~~databases of all of the following public agencies and international~~
9 ~~organizations in order to assess and identify the most highly toxic~~
10 ~~pesticides as defined in subdivision (c):~~

11 ~~(A) State Department of Health Care Services.~~

12 ~~(B) United States Environmental Protection Agency.~~

13 ~~(C) United States Department of Health and Human Services.~~

14 ~~(D) National Institutes of Health.~~

15 ~~(E) World Health Organization.~~

16 ~~(F) International Agency for Research on Cancer.~~

17 ~~(G) European Union.~~

18 ~~SEC. 3. If the Commission on State Mandates determines that~~
19 ~~this act contains costs mandated by the state, reimbursement to~~
20 ~~local agencies and school districts for those costs shall be made~~
21 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
22 ~~4 of Title 2 of the Government Code.~~